

March 17, 2008

Ann Marie Townshend City of Dover P.O. Box 475 Dover, De 19903

RE: PLUS review –2008-02-11; City of Dover Comprehensive Plan Amendment

Dear Ms. Townshend:

Thank you for meeting with State agency planners on February 27, 2008 to discuss the proposed City of Dover comprehensive plan amendments. According to the information received, you are seeking to amend the currently certified plan as follows:

- 1. Extend the annexation area along Artis Drive. Currently, the subject property is in the Category 3 Annexation Area, where annexations will not be considered during this planning horizon.
- 2. Amend the land use classification from Industrial to Residential High Density for the expansion of the Woodmill Apartments.
- 3. Amend the land use classification from Residential Low Density to Commercial along the Route 8 frontage of the Draper Farm. (This item was withdrawn by the applicant before the meeting. This item was not discussed at the PLUS meeting, and no agency comments for this proposed amendment are being transmitted in this letter)
- 4. Amend land use classification from Office and Office Parks to Commercial (as per rezoning application previously reviewed through PLUS at the corner of Route 8 and Saulsbury Road)

Please note that additional plan changes, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

The following are a complete list of comments received by State agencies:

# Office of State Planning Coordination - Contact: David Edgell 739-3090

General Comment: It is the policy of our office to only accept municipal plan amendments on an annual basis, in conjunction with the municipality's annual report. In the case of the City of Dover, several years ago we agreed to alter our policy to accept amendments on a bi-annual basis. We have appreciated excellent coordination from the City of Dover planning staff and have been very satisfied with the bi-annual review of plan amendments.

Our office is disappointed that the City has decided to submit plan amendments on a rolling basis, in direct conflict with a long standing policy arrangement that we feel has worked well for both parties. Individual, ad-hoc plan amendments are not in the best interest of the State, and we feel that they subvert the goals of the municipality's comprehensive planning process as well.

We would like to request a meeting with City officials to review the plan certification process, and to revisit our policy agreement to accept amendments on a bi-annual basis. We are open to working with City officials to craft a new agreement that addresses the needs of both parties. We will appreciate it if you do not submit any additional plan amendments until we can have such a meeting and come to a mutual agreement.

<u>Item #1:</u> The parcel in question is adjacent to lands that were designated as annexation areas as a part of a plan amendment reviewed in 2005 as PLUS 2005-03-10. This particular parcel was considered as an amendment in 2007 as a portion of PLUS 2007-01-02. Our office understands that the City is continuing to evaluate potential annexations in this area.

- Our office recommends that the City delay the consideration of this annexation plan amendment until the regularly scheduled plan update (which is due by September of 2008). We do not encourage a piecemeal approach to annexation plan amendments. The City's certified plan identifies this entire area as under evaluation. We would prefer to see this parcel integrated in the context of a future plan for the entire area.
- We encourage the City to consider this parcel (and this entire area, if further annexations are considered) as a Transfer of Development Rights (TDR) receiving area. It would be ideal to include the details of a municipal TDR

program in a comprehensive plan update, and to coordinate the municipal program with Kent County's program. Our office is available to assist the City in any way regarding the implementation of Transfer of Development Rights programs.

• If the City of Dover feels that there is an extraordinary community benefit to be achieved by annexing this property before the 2008 plan update is complete, then the State does not object. There is currently a policy in place that enables the City to consider plan amendments on a bi-annual basis. We also understand that the City has utility infrastructure in the area, and has been evaluating this area for potential annexation since the 2003 plan was certified. We will only request that upon annexation the parcel be placed in the lowest density residential zone available in order to allow for the future implementation of a TDR receiving area.

<u>Item #2</u>: The State is opposed to this proposed change from Industrial to High Density Residential. This plan amendment was previously reviewed in 2006 as a portion of PLUS 2006-07-11.

As the City grows, it will be important to have adequate land available to support new job growth as well as for new housing. Industrial land is being converted to residential use at an alarming rate, statewide. This site is a viable industrially zoned parcel in an existing industrial park. The development of this parcel for a future industrial use would be a potential benefit to the State, County, City and the applicants if used for economic development. It appears to be ideally situated for some sort of industrial or economic development use that would provide needed jobs and economic activity in the City of Dover. It is also worth noting that the conversion of this land to a residential land use and zoning category would likely have negative effects on the remaining industrial parcels by increasing the required buffers on these parcels.

Please also see the Delaware Economic Development Office comments on this parcel, found later in this letter.

Item #4: Our office has no objections to this proposed plan amendment.

## Division of Historical and Cultural Affairs - Contact: Terrance Burns 739-5685

The Division of Historical and Cultural Affairs has reviewed the four amendments proposed for the City of Dover's Comprehensive Plan and has the following comments:

Item 1: Any development proposed for this parcel should be evaluated for its

impact on any potential historic properties that may exist in this historically agricultural landscape including identification of potential burial locations to prevent the triggering of the state's unmarked human

remains law.

Item 2: Any development proposed for this parcel should be evaluated for the

identification of potential burial locations to prevent the triggering of the

state's unmarked human remains law.

Item 4: No comments or concerns.

## **Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) Regarding the land on Artis Drive, DelDOT is not opposed to the annexation that is contemplated, but in amending the Plan they would urge the City to look beyond the pending application. If it is appropriate to annex this parcel, it seems to DelDOT that annexation of the strip development separating the bulk of this parcel from Artis Drive would also be appropriate. Consideration should be given to including those lots in this Plan amendment to avoid the need for another amendment later.
- 2) The two rezoning applications have been reviewed through the PLUS process before. A comprehensive plan amendment associated with the land where the Woodmill Apartments expansion is now proposed was reviewed at the July 26, 2006, PLUS meeting (Application No. 2006-07-11). At that time, development of 22 acres, rather than the current 13 acres, was proposed. Also at that time, the main access was to be from Commerce Way rather than through the apartments. It is still important that sufficient buffering be provided from the Enterprise Industrial Park and that appropriate modifications be made to the existing apartment complex driveways to accommodate the additional traffic. However, DelDOT believes that these things can be done and they are not opposed to the current plan amendment. The commercial development at the intersection of Route 8 and Saulsbury Road was reviewed at the December 5, 2007, PLUS meeting (Application No. 2007-11-08). DelDOT comments from that meeting are still valid. They have no new comments now.

# <u>The Department of Natural Resources and Environmental Control – Contact:</u> Kevin Coyle 739-9071

#### **Water Resource Protection Areas**

The Water Supply Section, Ground-Water Protection Branch (GPB) has determined that none of the proposed amendments fall within any excellent ground-water recharge potential or wellhead protection areas (see map). We note that the City has adopted a wellhead protection component of their source water protection ordinance. We look forward to the completion of the excellent ground-water recharge potential area component.

# Map of the City of Dover Comprehensive Plan Amendment (PLUS 2008-02-11) The parcels under consideration in this Amendment are highlighted in blue. Wellhead areas are shown in red. Excellent ground-water recharge areas are shown in green.



## State Fire Marshal's Office – Contact: Duane Fox 739-4394

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. If the plan is approved the developer will be required, at the time of formal submittal, to provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

At this time the State Fire Marshals Office has no objection to and makes no comments regarding the comprehensive plan amendment.

## Department of Agriculture - Contact: Scott Blaier 698-4500

The Delaware Department of Agriculture has no objections to amending the comprehensive plan to accommodate items 2 (Woodmill Apartments), and 4 (Saulsbury Road).

Regarding the request to extend annexation along Artis Driver sooner than is anticipated in the city's current Comprehensive Plan, the Department requests the city wait until it updates its comprehensive plan in 2009. The city should consider the Artis Drive annexation in the greater context of its future plans to grow and annex land west. As the city is aware, there are a number of large farm parcels enrolled in the Agricultural Land Preservation Program that should be considered in any plan expand the city to the west.

#### Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

## **Delaware State Housing Authority – Contact Vicki Powers 739-4263**

The City of Dover is proposing an Amendment change to their Comprehensive Plan for future annexation area to include additional parcels and the land use classifications for three other parcels. DSHA supports item #2 proposal to amend the land use classification from Industrial to Residential High Density. As a general rule, DSHA supports re-zoning from any zoning district to multi-family zoning. Multi-family housing can be the most economical to construct, and is needed to meet the needs of low- and moderate-income families. While it is unclear at this time what income level this community will be

marketed toward, it would be beneficial if some units were set aside for the low- and moderate-income segment. In addition, the residents living in the multi-family units would be within walking distance to places of employment, markets, and services.

#### **Delaware Economic Development Office – Contact: Jeff Stone 739-4271**

Regarding the rezoning for the existing Enterprise Business Park from Industrial to Residential High Density for the expansion of the Woodmill Apartments, The Delaware Economic Development Office (DEDO) would not support the proposed Amendment from Industrial to High Density Residential. This property is part of the existing Enterprise Business Park. This Business Park has a good mix of business tenants and this is the last remaining developable land in the Park where new buildings for additional tenants could be developed. The loss of one of the few remaining developable industrially zoned parcels in the City of Dover is ill advised and hampers the expansion of the City's economic base. The development of high density residential uses contiguous with a business park and directly across North Street from a heavy industrial area could create safety issues for residents and conflicts between residential and business uses.

## **Department of Education – Contact: John Marinucci 735-4055**

- 1. The DOE supports the State Strategies for Policies and Spending, to the extent possible and practicable within the limits of the Federal and State mandates under which the Department operates.
- 2. In its review of Comprehensive Plans and Comprehensive Plan Amendments, the DOE considers:
  - Adequate civil infrastructure availability within the region to accommodate current and future educational facilities.
  - Transportation system connections and availability to support multimodal access within the community, to include but not limited to walk paths, bike paths, and safe pedestrian grade crossings.
  - Transportation road system adequacy to accommodate bus and delivery vehicle traffic to current, planned or potential educational facilities.
  - Recreation facilities and opportunities within the community and their respective proximity to current and planned or potential education facilities. The DOE also recognizes the potential that the educational facilities are to be considered recreational facilities by and within the community.
- 3. The DOE *typically* considers industrial/commercial development incompatible with educational facilities, however, residential development and educational facilities *are typically* considered to be compatible. As a result, the DOE is

- interested in the proximity of current and planned or potential education facilities to commercial/industrial development zones.
- 4. The DOE recognizes the integral role of educational facilities within communities. As such, the DOE seeks to assure that residential growth, that generates additional demand on educational facilities, is managed with adequate educational infrastructure being made a part of sub-division plans as appropriate.
- 5. The DOE offers its support to assist and participate by coordinating with this municipality, the local school districts the County, the Office of State Planning Coordination as well as other school districts and stakeholders as future development and annexations may be considered.
- 6. DOE has no comments regarding the Comprehensive Plan amendment under consideration.

## Approval Procedures:

The State again notes its objection to amendment #1 as stated in this letter. With that said, the proposed amendment creates no certification issues for you currently certified comprehensive plan.

Once the Planning Commission and Council have taken action on these amendments, please forward a copy of the any ordinances (approval or denial) relating to these amendments, any changes to the written section of you plan if the amendments are approved and an update map, if applicable, so that we can update our records.

Thank you for the opportunity to review this plan amendment. If you have any questions, please contact me at 302-739-3090.

Sincerely,

Constance C. Holland, AICP

Director